



DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-897, A-557-821]

Utility Scale Wind Towers from India and Malaysia: Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC), Commerce is issuing antidumping duty orders on utility scale wind towers (wind towers) from India and Malaysia.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Terre Keaton Stefanova (India); or Mark Harrison (Malaysia); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-1280 and (202) 482-0357, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 13, 2021, Commerce published in the *Federal Register* its affirmative final determinations in the less-than-fair-value (LTFV) investigations of wind towers from India and Malaysia, in accordance with sections 735(d) and 777(i) of the Tariff Act of 1930, as amended (the Act).¹ On November 29, 2021, the ITC notified Commerce of its affirmative final determinations, pursuant to section 735(d) of the Act that an industry in the United States is

¹ See *Utility Scale Wind Towers from India: Final Affirmative Determination of Sales at Less Than Fair Value*, 86 FR 56890 (October 13, 2021) (*India Final Determination*); see also *Utility Scale Wind Towers from Malaysia: Final Affirmative Determination of Sales at Less Than Fair Value*, 86 FR 56894 (October 13, 2021) (*Malaysia Final Determination*).

materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of LTFV imports of wind towers from India and Malaysia.²

Scope of the Orders

The products covered by these orders are wind towers from India and Malaysia. For a complete description of the scope of these orders, *see* the appendix to this notice.

Antidumping Duty Orders

On November 29, 2021, in accordance with section 735(d) of the Act, the ITC notified Commerce of its final determinations in these investigations, in which it found that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of imports of wind towers from India and Malaysia.³ Therefore, in accordance with section 735(c)(2) of the Act, Commerce is issuing these antidumping duty orders. Because the ITC determined that imports of wind towers from India and Malaysia are materially injuring a U.S. industry, unliquidated entries of such merchandise from India and Malaysia, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of wind towers from India and Malaysia. With the exception of entries occurring after the expiration of the provisional measures period and before publication of the ITC's final affirmative injury determinations, as further described below, antidumping duties will be assessed on unliquidated entries of wind towers from India entered, or withdrawn from warehouse, for consumption, on or

² See ITC Letter, "Notification of ITC Final Determinations in Investigation Nos. 701-TA-660 and 731-TA-1543-1544 (Final)," dated November 29, 2021.

³ *Id.*

after May 24, 2021, the date of publication of the *India Preliminary Determination*.⁴ Regarding Malaysia, because Commerce made a preliminary negative determination of sales at LTFV,⁵ Commerce did not direct CBP to suspend liquidation or to require a cash deposit of estimated antidumping duties for entries of wind towers from Malaysia on or after May 24, 2021. However, because Commerce made a final affirmative determination of sales at LTFV, Commerce directed CBP to begin suspension of liquidation of wind towers from Malaysia entered or withdrawn from warehouse for consumption, on or after October 13, 2021, the date of publication of the *Malaysia Final Determination*.⁶

Continuation of Suspension of Liquidation

In accordance with section 736 of the Act, Commerce intends to instruct CBP to continue to suspend liquidation on all relevant entries of wind towers from India and Malaysia. These instructions suspending liquidation will remain in effect until further notice.

Commerce also intends to instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins indicated in the tables below. Accordingly, effective on the date of publication in the *Federal Register* of the notice of the ITC's final affirmative injury determinations, CBP will require, at the same time that importers would normally deposit estimated duties on the merchandise, a cash deposit equal to the rates below. The relevant all-others rates apply to all producers or exporters not specifically listed.

Provisional Measures

Section 733(d) of the Act states that instructions issued under section 733(d)(1) and (2) of the Act pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request that Commerce extends the four-month period to no more than six

⁴ See *Utility Scale Wind Towers from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value*, 86 FR 27829 (May 24, 2021) (*India Preliminary Determination*).

⁵ See *Utility Scale Wind Towers from Malaysia: Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination*, 86 FR 27828 (May 24, 2021).

⁶ See *Malaysia Final Determination*, 86 FR at 56894.

months. At the request of the exporter that accounts for a significant proportion of wind towers from India, Commerce extended the four-month period to six months in the wind towers from India investigation. Commerce published the *India Preliminary Determination* on May 24, 2021.⁷

The extended provisional measures period, beginning on the date of publication of the *India Preliminary Determination*, ended on November 19, 2021. Therefore, in accordance with section 733(d) of the Act, Commerce intends to instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of wind towers from India entered, or withdrawn from warehouse, for consumption after November 19, 2021, the final day on which the provisional measures were in effect, until and through the day preceding the date of publication of the ITC's final affirmative injury determination in the *Federal Register*. Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC's final determination in the *Federal Register*.

⁷ See *India Preliminary Determination*, 86 FR at 27829.

Estimated Weighted-Average Dumping Margins

The estimated weighted-average dumping margins are as follows:

India:

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)	Cash Deposit Rate (Adjusted for Subsidy offsets)⁸ (percent)
Vestas Wind Technology India Private Limited	54.03	51.87
Acciona Winder Power India Pvt. Ltd	54.03	51.87
Nordex India Pvt. Ltd	54.03	51.87
Prommada Hindustan Private Ltd	54.03	51.87
Vinayaka Energy Tek	54.03	51.87
Zeeco India Pvt. Ltd	54.03	51.87
All Others	54.03	51.87

Malaysia:

Exporter/Producer	Estimated Weighted-Average Dumping Margin (percent)	Cash deposit rate (adjusted for subsidy offsets)⁹ (percent)
CS Wind Corporation/CS Wind Malaysia Sdn Bhd	3.20	0.00
All Others	3.20	0.00

Establishment of the Annual Inquiry Service List

On September 20, 2021, Commerce published the final rule titled “*Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*” in the

⁸ See *India Final Determination*, 86 FR at 56891.

⁹ See *Malaysia Final Determination*, 86 FR at 56895.

Federal Register.¹⁰ On September 27, 2021, Commerce also published the notice titled “*Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*” in the *Federal Register*.¹¹ The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.¹²

In accordance with the *Procedural Guidance*, for orders published in the *Federal Register* after November 4, 2021, Commerce will create an annual inquiry service list segment in Commerce’s online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), available at <https://access.trade.gov>, within five business days of publication of the order. Each annual inquiry service list will be saved in ACCESS, under each case number, and under a specific segment type called “AISL-Annual Inquiry Service List.”¹³

Interested parties who wish to be added to the annual inquiry service list for an order must submit an entry of appearance to the annual inquiry service list segment for the order in ACCESS within 30 days after the date of publication of the order. For ease of administration, Commerce requests that law firms with more than one attorney representing interested parties in an order designate a lead attorney to be included on the annual inquiry service list. Commerce will finalize the annual inquiry service list within five business days thereafter. As mentioned in

¹⁰ See *Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*, 86 FR 52300 (September 20, 2021) (*Final Rule*).

¹¹ See *Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*, 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

¹² *Id.*

¹³ This segment will be combined with the ACCESS Segment Specific Information (SSI) field, which will display the month in which the notice of the order or suspended investigation was published in the *Federal Register*, also known as the anniversary month. For example, for an order under case number A-000-000 that was published in the *Federal Register* in January, the relevant segment and SSI combination will appear in ACCESS as “AISL-January Anniversary.” Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

the *Procedural Guidance*, the new annual inquiry service list will be in place until the following year, when the *Opportunity Notice* for the anniversary month of the order is published.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website at <https://access.trade.gov>.

Special Instructions for Petitioners and Foreign Governments

In the *Final Rule*, Commerce stated that, “after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow.”¹⁴ Accordingly, as stated above, the petitioners and foreign governments should submit their initial entry of appearance after publication of this notice in order to appear in the first annual inquiry service list for those orders for which they qualify as an interested party. Pursuant to 19 CFR 351.225(n)(3), the petitioners and foreign governments will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioners and foreign governments are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

Notification to Interested Parties

This notice constitutes the antidumping duty orders with respect to wind towers from India and Malaysia pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at <http://enforcement.trade.gov/stats/iastats1.html>.

¹⁴ See *Final Rule*, 86 FR at 52335.

These antidumping duty orders are published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: November 30, 2021.

Ryan Majerus,
*Deputy Assistant Secretary
for Policy and Negotiations,
performing the non-exclusive functions and duties of the
Assistant Secretary for Enforcement and Compliance.*

Appendix

Scope of the Orders

The merchandise covered by these orders consists of certain wind towers, whether or not tapered, and sections thereof. Certain wind towers support the nacelle and rotor blades in a wind turbine with a minimum rated electrical power generation capacity in excess of 100 kilowatts and with a minimum height of 50 meters measured from the base of the tower to the bottom of the nacelle (*i.e.*, where the top of the tower and nacelle are joined) when fully assembled.

A wind tower section consists of, at a minimum, multiple steel plates rolled into cylindrical or conical shapes and welded together (or otherwise attached) to form a steel shell, regardless of coating, end-finish, painting, treatment, or method of manufacture, and with or without flanges, doors, or internal or external components (*e.g.*, flooring/decking, ladders, lifts, electrical buss boxes, electrical cabling, conduit, cable harness for nacelle generator, interior lighting, tool and storage lockers) attached to the wind tower section. Several wind tower sections are normally required to form a completed wind tower.

Wind towers and sections thereof are included within the scope whether or not they are joined with non-subject merchandise, such as nacelles or rotor blades, and whether or not they have internal or external components attached to the subject merchandise.

Specifically excluded from the scope are nacelles and rotor blades, regardless of whether they are attached to the wind tower. Also excluded are any internal or external components which are not attached to the wind towers or sections thereof, unless those components are shipped with the tower sections.

Merchandise covered by these orders is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7308.20.0020 or 8502.31.0000. Wind towers of iron or steel are classified under HTSUS 7308.20.0020 when imported separately as a tower or tower section(s). Wind towers may be classified under HTSUS 8502.31.0000 when imported as combination goods with a wind turbine (*i.e.*, accompanying nacelles and/or rotor blades). While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.